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10/042,371	12/27/2001	Andrew C. Gilbert		6761

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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/042,371
Filing Date: December 27, 2001
Appellant(s): GILBERT ET AL.

Glen R. Farbanish
Registration No. 50,561
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/29/2009
appealing from the Office action mailed 02/20/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

- Independent claims 14, 25, and 43.
- Dependent claims 13, 15-17, 21-22, 26, 28, 42, 44-46, and 48-80.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2002/0046154	Pritchard	04-2002
5,214,579	Wolfberg	05-1993
7,487,122	Lipper	02-2009

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 13-17, 21, 22, 25, 26, 28, 42-46 and 48-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard U.S. Patent Publication No. 2002/0046154 A1 (PTO-892 Reference A) in view of Lipper U.S. Patent Number. 7,487,122 B2 (PTO-892 Reference C).

3. As per claim 13, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses wherein the plurality of assets are from one or more categories including: fixed income securities, stocks, futures contracts, options contracts, commodities, currencies, other securities, non-security financial instruments, real property leases, leases, and collectibles (see Lipper Fig 1 and Col 4 Lns 49-67, From this list, a user can select a particular security or subset of securities for analysis . . . it should be understood that the system works just as well with debt instruments, options, and commodities futures. Therefore, the use of the term "security" is not intended to be limited to stocks, but should be inferred to include all types of securities).

4. As per claim 14, Lipper discloses a method comprising the steps of:

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- ✓ displaying a plurality of assets to a user via a first computing device(see Lipper Fig 1 and Col 4 Lns 49-67);
- ✓ receiving from the user via the first computing device at least two selected assets from the plurality of assets, wherein at least a first and a second of the selected assets are different assets (see Lipper Col 5 Lns 53-56);
- ✓ a second computing device: comparing a rate of return of at least one of the assets within the dynamic security to a pre-determined target rate of return (Lipper Col 6 Lns 21-58);
- ✓ determining that the rate of return of the at least one asset deviates from the pre-determined target rate of return least a pre-determined amount (Lipper Col 6 Lns 53-54) examiner interprets Lipper does disclose displaying the determination of the return of a security based on being indexed by another security and that the rate of return deviates by at least 0.1 according to the decimal places listed) ; and
- ✓ based at least in part on determining that the rate of return of the at least one asset deviates from the pre-determined target rate of return by at least the pre-determined amount, providing to the user via the first

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computing device a notification of the deviation (Lipper Col 6 Lns 35-58).

However, Lipper does not explicitly disclose:

- ✓ purchasing the selected assets to form a dynamic security, wherein the user may trade the dynamic security as a whole, and/or may divide at least one asset from the dynamic security and trade the divided asset separately from the dynamic security;

Pritchard discloses the purchase of investment instruments (see Pritchard [0055]) and that the instruments may be disassembled and traded individually (Pritchard [0025]). It would have been obvious to combine the teachings of Lipper with Pritchard for the purpose of facilitating a financial management system for administering investment instruments that can be traded (see Pritchard Abstract).

5. As per claim 15, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses the step of monitoring a rate of return of each of the assets within the dynamic security (Lipper Col 6 Lns 21-58).

6. As per claim 16, Pritchard in view of Lipper disclose the limitations of claim 15. Lipper further discloses the step of comparing the rate of return of each of the assets within the

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dynamic security to the pre-determined target rate of return (Lipper Col 6 Lns 21-58).

7. As per claim 17, Pritchard in view of Lipper disclose the limitations of claim 16. Lipper further discloses comprising the step of: for each of the assets within the dynamic security for which the respective rate of return deviates at-a from the pre-determined target rate of return by at least the pre-determined amount, providing to the user via the first computing device a notification of the respective deviation (Lipper Col 6 Lns 35-58).

8. As per claim 48, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses wherein the user specifies the pre-determined amount (Lipper Col 6 Lns 21-29).

9. As per claim 49, Pritchard in view of Lipper disclose the limitations of claim 48. Lipper further discloses, wherein the user specifies the pre-determined target rate of return (Lipper Col 6 Lns 21-29).

10. As per claim 50, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses the step of displaying to the user via the first computing device a purchase price for at least one of the plurality of assets (Lipper Col 5 Lns 25-27).

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11. As per claim 51, Pritchard in view of Lipper disclose the limitations of claim 14. Pritchard further discloses the step of receiving from the user for at least one of the selected assets a quantity of the at least one selected asset to be purchased (Pritchard [0054]-[0055]).

12. As per claim 52, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses the step of: based at least in part on purchasing the selected assets, displaying the purchased assets to the user via the first computing device, wherein the purchased assets are displayed to the user so as to show that the purchased assets are part of the dynamic security (Lipper Fig 4 and Col 7 Lns 3-5).

13. As per claims 53-57, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses wherein determining that the rate of return of the at least one asset deviates from the pre-determined target rate of return by at least the pre-determined amount comprises determining that the rate of return of the at least one asset exceeds the pre-determined target rate of return by at least the pre-determined amount; providing to the user the notification of the deviation comprises providing to the user a notification of an increase in value of the at least one asset; determining that the rate of return of the at least one asset deviates from the pre-

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determined target rate of return by at least the pre\-\-determined amount comprises determining that the pre-determined target rate of return exceeds the rate of return of the at least one asset by at least the pre-determined amount; and providing to the user the notification of the deviation comprises providing to the user a notification of a decrease in value of the at least one asset (Lipper Col 6 Lns 52-55).

14. As per claims 58-60, Pritchard in view of Lipper disclose the limitations of claim 14. Pritchard further discloses after providing to the user the notification, receiving from the user an indication to sell the at least one asset; and based at least in part on receiving the indication, trading the at least one asset without trading the other assets within the dynamic security; and after trading the at least one asset, receiving from the user via the first computing device another selected asset from the plurality of assets; and purchasing the another selected asset such that the another selected asset becomes part of the dynamic security (see Pritchard [0063]).

15. Claims 21, 22, 25, 26, 28, 42-46 and 61-80 are rejected using logic similar to that used in the claims 13-17 rejections.

(10) Response to Argument

I. Appellant Argues that:

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Nowhere in the cited portion of Lipper, does Lipper disclose or suggest "determining that the rate of return of the at least one asset deviates from the pre-determined target rate of return by at least a pre-determined amount" or "providing to the user via the first computing device a notification of the deviation" of claim 14.

Examiner responds that:

Lipper Col 6 Lns 53-54, presents a table that illustrates a companies rate of return and both assets and equity (PHARMACIA), and compares those returns to an expected return (AMGEN). In this table AMGEN is being used as the index stock. The table also clearly illustrates that the rate of return of Pharmacia deviates from the target indexed return of AMGEN by at least a predetermined amount of -0.1 which is shown by the number of decimals shown. Examiner notes that the presentation of the differing rates is broadly viewed as the determination, and that Lipper discloses the output and display of the sited table to its users, which examiner relies on to satisfy the notification limitation.

II. Appellant Argues that:

Motivation to combine Lipper and Pritchard as it relates to "purchasing the selected assets to form a dynamic security, wherein the user may trade the dynamic security as a whole,

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and/or may divide at least one asset from the dynamic security and trade the divided asset separately from the dynamic security" is not shown.

Examiner responds that:

Pritchard discloses the purchase of investment instruments (see Pritchard [0055]) and that the instruments may be disassembled and traded individually (Pritchard [0025]). What Pritchard generally teaches is a Financial management system for handling the trade of securities. what Lipper generally teaches is a method of pricing and valuation of securities. It would be obvious to combine because it is a common practice in the field of security trading to determine value prior to trading.

III. Appellant Argues that:

Art does not teach the limitations "wherein the user specifies the pre-determined amount" as claimed in claim 67

Examiner responds that:

This limitation was not given patentable weight because the claim is directed to an apparatus (independent claim 43) which consists of a processor, a memory, and a display.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/C. Onyezia/

Examiner, Art Unit 3691

Conferees:

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691